

# **RULE IV**

# **CERTIFICATION AND**

# **APPOINTMENT**

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## 4.01—CERTIFICATION

### 4.011

The Office of Personnel Administration shall certify a list of eligibles, subject to reachability and availability criteria, for an interview by the Appointing Authority or designee for the class of position for which the list was established or deemed appropriate. The certified eligible is responsible for contacting the interviewing official as instructed in the certification notice.

### 4.012

A. A refusal for certification shall mean the refusal of a job offer by the Appointing Authority/designee or the failure to report for duty upon acceptance of appointment.

B. Non-availability shall refer to any of the following circumstances:

Waiver of availability in writing at any time

- Failure to respond to availability survey
- Failure to respond to certification notice
- Responded to certification notice stating non-availability
- Eligible interviewed funds terms and conditions of employment, as described by interviewing official, unacceptable
- An eligible who has status in a permanent position of equal or higher pay, unless employee requests retention of name on list

### 4.0121

In all instances of non-availability for or refusal of a permanent, unrestricted position as outlined in

### 4.012

except waiver, eligibles will be placed on an inactive list for a period of 6 months. If eligible wishes to have his/her name certified at the end of that period (s)he must notify the Office of Personnel Administration in writing. In the case of a waiver, an eligible may have his/her name returned to the active list at any time by writing to the Office of Personnel Administration. If an eligible can show good cause why (s)he refused or was non-available as outlined in 4.012 and wishes reinstatement to the active list during the 6 month penalty period, (s)he may appeal to the Office of Personnel Administration, who may order restoration of name to original rank on list. Reinstatement to a list can only be made during the legal existence of the list.

### 4.013

- Names may be removed from the certification process because of:
- (a) evidence of conduct which indicates that the individual would be unsuitable as defined in G.L. 36-4-24 or in other statutes and rules.
  - (b) acceptance of permanent appointment for the classifications.
  - (c) falsification of records.
  - (d) refusal of a job offer.

(e) termination or retirement from state service. Employees who terminate will have their name removed from all promotional list(s) only. Retired employees will have their name removed from all list(s).

(f) evidence that an individual could not satisfactorily perform the duties of the job.

4.014

All available eligibles certified by the Office of Personnel Administration shall be granted an interview unless the incumbent is certifiable and satisfactory to the Appointing Authority.

4.015

(Deleted in its entirety effective November 13, 1983)

4.016

An Appointing Authority may request that certification be restricted to those who possess the ability to read, write and speak a foreign language, provided that said Appointing Authority shall certify that said position requires as an integral part of the job a specific level of fluency in a foreign language in order to achieve satisfactory performance. If the Personnel Administrator deems the request valid, the Administrator shall order the certification of the top six candidates who shall have indicated that they have the ability to read, write and speak in the appropriate language. This Appointing Authority shall then convene a panel of three persons conversant with the job requirements and fluent in the language to screen the certified applicants. The panel shall interview all persons certified to validate the level of proficiency possessed by those persons certified by the Office of Personnel Administration. In the event that the panel determines that person(s) do not possess an adequate level of proficiency, the Appointing Authority shall request the Personnel Administrator to decertify person(s).

4.017

When an eligible who has been certified to an Appointing Authority becomes legally ineligible for appointment that is, as specified in 4.012 and 4.013, an additional name shall be immediately certified to said Appointing Authority for an interview upon request of the agency.

4.018

The Personnel Administrator or designee shall establish list(s) for specified classifications subsequent examination in accordance with law. The date the Personnel Administrator or designee signs the list(s) is the official date of establishment of list(s). Upon list establishment, the Personnel Administrator shall replace temporary appointments, who are not reachable in accordance with G.L. 36-4-31.

4.0181

(A) Temporary Employees (1) who are incumbents in the class examined or for which a list has been deemed appropriate, and (2) who are reachable; that is, in the "top" (6) for certification from the

appropriate list shall be immediately certified by the Office of Personnel Administration from temporary to probationary status to the respective department Appointing Authority. The Appointing Authority shall authorize appointment from temporary to probationary, barring any "just cause" for dismissal, effective the date of certification. Each such temporary appointee shall be immediately notified that such certification has been made.

(B) Where the Appointing Authority finds "just cause" for dismissal of the incumbent, then the Appointing Authority may request additional available, reachable eligibles. The Personnel Administrator shall certify in this order in accordance with G.L. 36-4-25: (1) Preferred Reemployment List (2) \*Promotional, Employment or Reemployment List \* Selection of these lists are at the Appointing Authority's discretion. An Appointing Authority may request names from the Reemployment list, composed of former state employees with status for said classification who are eligible for reemployment 3 years from termination date. If the reemployment list has insufficient eligibles, the Office of Personnel Administration will certify additional names from the Promotional List unless the Appointing Authority requests otherwise.

#### 4.0182

Temporary appointees, who are not reachable for certification, shall be replaced in the following order: (a) Those who did not apply for the examination in the reverse order of length of service; (b) Those who applied for the examination but did not appear for the examination in the reverse order of length of service; (c) Those who did not pass the examination in order of the lowest score first; (d) Those who passed the examination in order of the lowest rank first.

#### 4.0183

Upon receipt of a request for a list of eligibles (either promotional or employment) for appointment, the Personnel Administrator will certify the list requested and in addition certify all persons on the "Handicapped List."

#### 4.01831

Eligibles appointed from the "Handicapped List" will be appointed in a temporary status for a period of five (5) months. Upon completion of the five (5) months, the Appointing Authority must signify intent to continue employment whereupon said employee will be placed in a probationary status. Upon satisfactory completion of the probationary period, said employee shall be granted permanent status.

## 4.02—APPOINTMENTS

### 4.021

Appointment at Minimum Salary All appointments to positions in the classified service shall be made at the minimum salary applicable to the class with the following exceptions:

#### 4.0211

Upon recommendation of the Appointing Authority concerned, appointments of employees who leave one class of position to accept appointment in another may be made at the existing salary of such employees, provided, however, that no appointment shall be made at any salary higher than the maximums of the range, except that the provisions of subsection 4.0613 shall apply to longevity increases. When under the provisions of this rule an existing salary falls between two successive steps of the new salary range, the appointment shall be made at the higher step. However, upon recommendation of the Appointing Authority concerned, an employee who leaves one class of position to accept appointment in a higher class of position, may be appointed at the nearest salary step of the new range which provides minimally for a salary adjustment which is equal to or greater than the difference between the first and second steps of the new class.

#### 4.0212

Upon recommendation of the Appointing Authority concerned, appointments from reemployment lists may be made at a salary which would place the employee in the same position in the pay range that (s)he held immediately prior to his/her termination from the state government; except that an employee presently in state service who is eligible for the reemployment list may return to a former class of position at his/her present salary but never higher than the maximum salary of the grade for the class to which (s)he is being appointed.

#### 4.0213

Original or promotional appointments of temporary employees who have qualified for their own positions shall be made at the existing salaries of such temporary employees.

#### 4.0214

Non-competitive appointments shall be made upon recommendation of the Appointing Authority and approval of the Personnel Administrator, subject to established requirements for character, registration, certification, and/or licensure or physical condition as set forth in Title 36-4-6 of the General Laws of 1956, as amended. Appointees must maintain current and valid licensure or certification of registration as required by class specification to be eligible for

continued employment. Annually on the anniversary date of hire, employee must provide the Appointing Authority and the Personnel Administrator with documentation of compliance. Failure to do so within 10 days of said anniversary date will result in termination of service for just cause. A false or misleading statement of material fact in the application of any person for a position in the competitive or non-competitive branch shall revoke any recommendation or approval accorded such application.

#### 4.0215

Title 36-4-32 of the General Laws of 1956, as amended, defines emergency appointments as follows: In case of emergency an Appointing Authority may request an emergency, appointment of any person to any position without regard to provisions of this chapter to carry on work that must be continued in the public interest but no such emergency appointment shall continue for more than thirty (30) working days in a twelve-month period nor shall successive emergency appointments be made. Approvals for such appointments shall be requested in writing in advance to the Personnel Administrator. All such appointments must be approved by the Personnel Administrator and state Budget Officer.

#### 4.0216

Appointments Above Minimum: Authorization All appointments in the Classified Service shall be at the first step unless otherwise approved by the Personnel Administrator. Approval will only be granted for reasons related to business necessity as set forth in guidelines established by the Personnel Administrator.

#### 4.0217

When an employee is required to work in a higher class of position for a period of eleven (11) consecutive days or more, or for any number of days that may be stipulated in a particular union contract, such employee shall receive the lowest salary rate of that higher class which will provide a pay increase of at least one step over his/her present base rate retroactive to the first day of such assignment.

#### 4.0218

##### Residency/Domicile

Any person who has been appointed to a position in the classified service must, within six months of said appointment, establish his/her principal residence and domicile within the State of Rhode Island and maintain said principal residence and domicile throughout the period of employment as a State employee. Residency/Domicile for Classified Employee Purposes

(a) A person's residence for employment purposes is his/her fixed and established domicile. The determinant of one's domicile is that

person's factual physical presence in Rhode Island on a regular basis incorporating an intention to reside for an indefinite period. This domicile is the place to which, upon temporary absence, (s)he has the intention of returning. Once acquired, this domicile continues until another such domicile is established. Such domicile shall not be considered lost by reason of absence for any of the following reasons: 1. Employment or service outside of the state intimately connection with military operations or with the federal government, including the spouse and dependents of an elector so employed; 2. Confinement in a correctional facility; 3. Being a patient in a hospital, convalescent home, nursing home or rest home or like facility; or 4. Attendance as a student at an academic institution, including the spouse and dependents of an employee who is such a student.

(b) The following may be considered prima facie evidence of a person's residence for employment purposes: 1. Proof of qualification to vote as Rhode Island resident as certified by municipality 2. The address furnished to the Registry of Motor Vehicles for the employee's operator's license; 3. The address from which the employee's motor vehicle is registered; 4. The address from which the employee filed his/her last federal income tax return; 5. The address from which the employee filed his/her last state income tax return; 6. The address furnished to the companies from which the employee has obtained retail credit cards; 7. The address furnished to the financial institutions where the employee maintains accounts; 8. The address furnished to the tax collector and/or assessor in those communities where the employee owns taxable real personal property for the purpose of notification to him/her; 9. The address furnished to the insurance companies with which the employee maintains policies; 10. The address furnished to the employee's Appointing Authority; 11. The address furnished by the employee to any business, professional, union or fraternal organizations of which (s)he is a member; 12. The address furnished to governmental agencies with which the employee has contact; 13. The address of a hospital, convalescent home, nursing home or rest home or like facility at which the employee has been patient or resident for the preceding thirty (30) days or longer; 14. The address furnished to the United States Postal Service on a change of address form as verified by the United States Postal Service. Evidence must satisfy Appointing Authority(s). Other forms of evidence must be approved by the Personnel Administrator.

4.0219

Appointment: Statutory Service In accordance with 36-4-59, the employee shall have been deemed to have acquired full status in the



position (s)he shall be holding at the time of obtaining such status or for any position (s)he may subsequently hold, without examination.

#### APPOINTMENTS (Relates to Unclassified Service)

##### 4.0220

All appointments to positions within the Unclassified Service shall be made by Appointing Authorities or the Governor in accordance with the provisions of the laws governing such appointments and the Personnel Rules adopted for the Unclassified Service which upon approval of the Governor shall have the force and effect of law except where in those agencies of State government certain requirements and standards of the Federal Government must be adhered to for the operation of the specific programs. Such agencies shall be designated by the Personnel Administrator for compliance with the following regulations:

##### 4.0221

In such agencies, the following mode of appointments to positions in the Unclassified Service shall apply: (a) Notice of Vacancies The Appointing Authority, with the approval of the Personnel Administrator, shall prepare official notice of vacancies which shall include the following information: (b) The title, salary range, and a brief statement of the duties to be performed by the class to which the position is assigned (c) The opening and closing date of the application period and places where applications may be obtained. (d) The minimum qualifications that are required for appointment to such positions including education and experience. (e) Any special requirements such as licensure in a specific profession or trade, motor vehicle operator's license, etc.

##### 4.0222

#### Publication

The official announcement of all vacancies shall be posted in the Office of Personnel Administration,, the office of the employing agency and other places that shall be deemed appropriate. The Appointing Authority shall further cause such notice to be published in at least one daily newspaper published in Rhode Island, and may be forwarded for publication in other public media.

##### 4.0223

#### Applications for Vacancies

applications for such vacancies as defined in this rule shall be made on forms prescribed by the Personnel Administrator and may require information as to the education, training and experience of the applicant and such other information as (s)he may deem lawful and pertinent.

##### 4.0224

### Place of Filing Applications

Such applications shall be filed with the Appointing Authority of the agency wherein the vacancy exists or as outlined in notice on or before the time prescribed in the Notice of Vacancy.

4.0225

### Selection and Appointment

Upon the determination of need to fill a position or positions under the provisions of these rules, the Appointing Authority shall appoint a committee of two senior staff members of the agency who are knowledgeable in the area wherein the position(s) exist together with a representative designated by the Personnel Administrator. Such committee shall be charged with reviewing all applicants and preparing a list of those applicants that in their opinion are qualified for appointment to such vacancies that shall exist or hereafter exist in the class of positions in the agency for a period of one year. This committee shall in the process of reviewing such applicants for appointment, employ such methods as they may deem necessary. The methods used may include, but are not limited to, review of applicants' education and experience, conduct of oral interviews, and the use of subject matter experts for consultation.

4.0226

Upon the completion of the selection process and the certification of the committee of a list of qualified applicants to the Appointing Authority, such Appointing Authority shall make appointments to vacancies from this list in accordance with the provisions of the Rules for the Unclassified Service of the State.

4.0227

**Equal Employment Opportunity** All agencies employing persons in the Unclassified Service of the State will assure that all employees and applicants for employment are provided equal employment opportunity, without discrimination on the basis of race, color, religion, sex, national origin, or age through a continuing affirmative action program.

4.0228

Title 36-4-32 of the General Laws of 1956, as amended, limits emergency appointments to thirty (30) calendar days and prohibits successive emergency appointments. Therefore, persons appointed as emergency appointees may be continued in employment only in accordance with the normal procedure established by the law and the rules.

4.0229

Upon recommendation of the Appointing Authority concerned, an employee who has terminated in the Classified or Unclassified

Service may be appointed to a position in his/her former service at a salary no less than the salary (s)he held prior to his/her termination, provided that the time elapsed between termination and appointment shall not exceed three years and provided that the salary at which appointment is made shall not be above the maximum of the grade in which (s)he is appointed.

#### 4.0230

Upon written presentation of the department head that it is impossible to recruit to a vacancy at the minimum of the range, an Appointing Authority, with approval of the Personnel Administrator, may appoint at a step other than the minimum of the pay range allocated to such vacancy.

### 4.03—RECLASSIFICATIONS

#### 4.031

Whenever a position is reallocated to a different class of position and the incumbent of the position so reallocated is to be employed in the said different class, his/her salary shall be the minimum of the class or his/her existing salary, whichever is greater, provided, however, that such salary does not exceed the maximum salary of this said different class, except in the case of employees enjoying a longevity increase in which case the provisions of subsection 4.0613 shall apply. In cases of reclassification where there is substantial evidence that the employee has been performing the duties of a new classification for a considerable period of time, the Appointing Authority may recommend, that special service credits be allowed the employee for the period of service. Provided, however, that such service credits shall be limited to a period not to exceed one year prior to the date of the receipt of the official request from the Appointing Authority for such reclassification by the Office of Personnel Administration. If this recommendation is approved by the Personnel Administrator, the employee shall be given such credit in the pay range of the new classification for performance of the duties of the new classification as shall be determined by the Personnel Administrator.

### 4.04—SALARY INCREASES

#### 4.041

An employee appointed from an employment or promotional list shall receive a one-step increase at the satisfactory completion of the probationary period and shall receive an additional one-step increase each year thereafter until (s)he has reached the maximum of his/her grade. An employee with temporary status shall receive a one-step increase after six months of service in his/her classification and shall receive an additional one-step increase each year thereafter until (s)he has reached the maximum of his/her grade. Each increase shall require the approval of the

Personnel Administrator as to the eligibility under the law and the rules. Each step in the pay grade shall constitute a salary increase, and no employee may be granted more than one salary increase in the same year of service, except those increases granted under Section 4.08. A year of service shall be deemed to be 26 bi-weekly pay periods. Any temporary employee who fails to apply for an announced examination for the class to which his/her position is allocated or who, when notified to do so, fails to appear and participate in such an examination shall not be eligible for a salary increase until (s)he has appeared for and participated in such an examination or for two years from the date of the establishment of the list resulting from such required examination, whichever date is the earlier.

4.042

#### Salary Increases (Relates to Unclassified Service)

This regulation contemplates the gradual advancement of an employee from the minimum to the maximum of the appropriate range established within the Unclassified Pay Plan. Salary and longevity increases shall be granted in accordance with the Law and the Rules and shall take effect on the first day of a biweekly pay period next following the anniversary date. Step increases shall be granted to new appointees after completion of six months of service, which is construed to be 13 biweekly pay periods, and each year thereafter until the maximum of the range is attained.

4.043

The effective date of salary increases shall be the start of the new pay period next following the employee's anniversary date.

4.044

Whenever a revision of the pay plan is proposed or authorized, the Personnel Administrator shall recommend to the Director of Administration appropriate regulations for the purpose of giving effect to such pay plan change.

4.045

(Relates to Unclassified Service) Whenever a revision of the Unclassified Pay Plan is proposed or authorized, the Personnel Administrator shall recommend to the Board appropriate regulations for the purpose of giving effect to such pay plan change.

### 4.05—MAINTENANCE

4.051

The official Pay Plan shall be deemed to provide full compensation for services rendered. Meals, quarters or other maintenance privileges which may be made available to employees shall be granted only after recommendation of the appropriate Appointing Authority and approval by the Budget Officer, who shall be vested with authority to conduct reviews and order such revisions or modifications as may be deemed to be in the best interests of the State and the employees. All present maintenance privileges shall remain in full force and effect until such time

as a change may be made as provided above.

#### 4.06—LONGEVITY INCREASES

##### 4.061

Longevity is defined as total length of service with the State of Rhode Island not necessarily continuous. In computing length of service for longevity purposes all full-time and part-time employment is to be counted. Emergency appointments are to be counted and work performed by an individual under contract to the State is to be counted. State Representatives and Senators will be given two years credit for each full term served and pages, doorkeepers and clerks of legislative committees will be given 60 calendar days credit for each year served. Members of boards and commissions who are paid on a daily rate and individuals on a monthly payroll or students in assistance programs at the State Colleges receive no credit toward longevity.

##### 4.062

Each member shall be granted longevity increases according to the following formula unless modified by a particular union contract

<b>YEARS OF SERVICE</b>	<b>PERCENTAGE INCREASE ON GROSS RATE</b>
7	5%
11	10%
15	15%
20	17.5%
25	20%

##### 4.0621

Gross rate is the base rate as it appears in the pay grade plus shift differential, charge duty and incentive awards.

##### 4.0622

Longevity increases shall receive the approval of the Personnel Administrator as to eligibility under the Personnel Rules.

##### 4.0623

Changes in Positions - Effect on Longevity Increases

Whenever an employee is receiving a longevity increase(s) and thereafter is promoted, demoted, reclassified or otherwise lawfully established in a different class of position, this change shall in no way effect the longevity increase which said employee is currently enjoying.

##### 4.0624

Salary Range Changes

Whenever a class of position is advanced from one range to another, the

salary of each employee in the classification affected shall be advanced to the corresponding step in the new pay range. This action shall be called a pay plan adjustment. It shall not be deemed to be a salary increase. Employees enjoying the benefits of a longevity increase or increases on the effective date of any pay plan adjustment shall continue to have the benefit of their longevity increase(s) recalculated on the new base rate for the classification. Eligibility for future longevity increase(s) shall not be impaired

4.0625

#### Pay Plan Adjustments

Whenever a general revision of the Pay Plan is authorized, the necessary adjustments to implement such authorization shall be made in accordance with procedures recommended by the Personnel Administrator and approved by the Director of Administration.

4.0626

#### Pay Plan Adjustment (Relates to Unclassified Service)

Whenever a general revision of the Unclassified Pay Plan is authorized, the necessary adjustments to implement such authorization shall be made on a step basis between pay ranges or as otherwise indicated in the authorization.

4.0627

(Relates to Unclassified Service) Salaries of Directors or State Departments, Judges of the Workers' Compensation Court shall be established by the Unclassified Pay Board as provided in Title 36-4-16.4 of the General Laws, 1956, as amended. 4.063 Charge Duty Assignment It is hereby provided that Appointing Authorities may designate the duties of certain nurses' positions to be in charge of other nurses and/or attendants, certain practical nurses' positions to be in charge of other practical nurses and/or attendants, and certain attendants' to be in charge of other attendants in a Ward or Unit, and certain power plant engineers' positions of other power plant engineers in a Unit, and certain cooks' positions to be in charge of other cooks in the School Lunch Program. The persons holding such positions shall be paid additional salary over and above the salary which such employee is receiving under the Pay Plan, according to the following schedule: Cook (School Lunch Program), when so designated shall receive an additional 23¢ per hour; Institution Attendant when so designated, shall receive an additional salary at the annual rate of \$130.00; Institution Attendant (Psychiatric) and Institution Attendant (Mental Retardation), when so designated, shall receive additional salary at the annual rate of \$195.00; Licensed Practical Nurse and Correctional Officer?Hospital, when so designated, shall receive additional salary at the annual rate of \$195.00; Registered Nurse, when so designated, shall receive additional salary at the annual rate of \$250.00; Power Plant Engineer, when so designated, shall receive additional salary at the annual rate of \$260.00. The rates specified in

this rule may be modified by a particular union contract. When such designations are made, or withdrawn, the Office of Personnel Administration shall be duly notified on prescribed forms.

#### 4.07—SHIFT DIFFERENTIAL

##### 4.071

Employees on any shift that starts on or after 3:00 pm and ends on or before 8:00 am may be entitled to a shift differential, however, employees whose scheduled hours are 7:00 am to 3:00 pm or 8:00 am to 4:00 pm shall not receive a shift differential for the 7:00 am to 8:00 am hour or the 3:00 pm to 4:30 pm hour and one-half. 4.072 All employees who are permanently assigned to work sixteen (16) or more hours of a forty (40) hour workweek or fourteen (14) or more hours of a thirty-five (35) hour workweek during the period defined in 4.071, shall be compensated an additional forty cents (40¢) an hour over the rate prescribed for the classification in which their work is performed for a hours of the workweek; or they may be compensated at a rate that is stipulated in a particular union contract.

#### 4.08—INCENTIVE IN-SERVICE TRAINING PROGRAM

Purpose: To encourage the development of the individual state employee and to improve the service of the State to its citizens. Objectives: To familiarize employees of state government in the intricate functions of all the facets of government; to make state employees more conscious of the working of state government; to insure a broader knowledge of each department; to better evaluate their own jobs by using the knowledge received in these courses in relation to their own jobs; to improve employees' performance on the job by in-service training in specialized and general basic areas of knowledges, skills and abilities required in state employment.

##### 4.081

Curricula to be established in accordance with the following principles:

##### 4.0811

Training courses to be in the areas of knowledges, skills, and abilities required in the performance of the duties of the classification and the legal objectives and responsibilities of the state agency to which the employee is assigned.

##### 4.0812

All courses integral to this program must be approved in advance by the Personnel Administrator or designee.

#### 4.082 Incentive awards to be implemented in accordance with the following regulations:

##### 4.0821

A certificate to be awarded at the successful completion of each course.

##### 4.0822

A one-step pay increment next above the current base step (or if the employee is at the maximum of the grade or has a longevity pay increase above the maximum of the grade, an increment equal in amount to the last step in the pay grade) after the successful completion of a four-course curriculum to be effective on the beginning of the pay period next after the issue date of the certificate of completion by the Training Section, Office of Personnel Administration. Said increment to be retained, separate and apart from any salary or longevity increase that the employee may at that time, or thereafter receive, restricted, however, to the limitation contained in section 4.0823.

#### 4.0823

Each employee shall be eligible for only one such increment, under the Incentive In-Service Training Program, during the course of his/her employment with the State.

#### 4.0824

Employees who are paid on a flat rate schedule, upon successful completion of a four (4) course curriculum approved by the Office of Personnel Administration, in accordance with 4.0822, shall be eligible for a pay increment increase, the Pay Plan shall be studied to determine the nearest comparable salary grade and the increment shall be equivalent to the last step in that pay grade.